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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,805	09/29/2000	Joseph R. Stonoha	632.0001USU	2958
7590 Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. 10th Floor One Landmark Square Stamford, CT 06901-2682			EXAMINER  BORISOV, IGOR N	
			ART UNIT  3628	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/03/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/676,805	STONOHA ET AL.
	Examiner	Art Unit
	Igor N. Borissov	3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 08 January 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,5-7,10,14,15,19,23-31,33-35,37-42,44-46,48-53,55-57,59,60 and 73-81 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1,5-7,10,14,15,19,23-31,33-35,37-42,44-46,48-53,55-57,59,60 and 73-81.

## DETAILED ACTION

### ***Response to Amendment***

Amendment received on 1/08/2007 is acknowledged and entered. Claims 2-4, 8, 9, 11-13, 16-18, 20-22, 25-27, 32, 36, 43, 47, 54, 58 and 61-72 have been canceled. Claims 73-75 have been amended. Claims 1, 5-7, 10, 14, 15, 19, 23-24, 28-31, 33-35, 37-42, 44-46, 48-53, 55-57, 59, 60 and 73-81 are currently pending in the application.

Claim Rejections under 35 USC § 112 and 35 USC § 101 have been withdrawn due to the applicant's amendment.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. (US. US 5,448,685).**

Claims 73-75. Ogura et al. (hereinafter Ogura) teaches a computer-implemented method, system and computer-readable medium having instructions for performing said method, for forming labels with a computer in response to entries from an input device, comprising:

Responding to an inputted selection of a current job as an ad hoc job (new formation) or a serial job (continuation) (Figs. 8A, 8B, #14 and #16; C. 9, L. 33-60);

if the current job is an ad hoc job, presenting one or more ad hoc display screens for a user to define an ad hoc job that includes a variety of labels having different content, some of the labels of said ad hoc job being unrelated to other labels of said ad hoc job (Figs. 8B – 37);

if the current job is a serial job, presenting one or more serial display screens for a user to define a serial job that includes a plurality of labels having different content and related to one another in a sequential fashion (Figs. 8B – 37); responsive to at least one entry of said entries, printing either said ad hoc job or said serial job (Figs. 8B – 37).

Ogura does not explicitly teach that said new formation job is "ad hoc job", and that said continuation job is "serial job".

However, specification defines an "ad hoc job" ( page 8, lines 16-24), as "Referring to FIG. 6, a display screen 90 is presented on display 46 when a user selects an ad hoc job for creating labels. *An ad hoc job includes a variety of different labels that may or may not be related. For instance, an ad hoc job may include replacement labels for an existing set of labels. Some of these labels will bear no ordered sequential relation to other labels in the job. However, the ad hoc job is versatile enough to include a group of labels that have an ordered sequence.*", {emphasis added}. In view of applicant's own definition that an "ad hoc job" is a print job containing a number of labels and is versatile enough to include a series of labels either in a sequential order; or that are not in a sequential order, it is noted that one of ordinary skill at the time the invention was made could interpret any label print job of Ogura et al ('685) as the disclosed and claimed "AD HOC JOB". Furthermore, it appears that the use of said specific terminology would be an obvious variation of any technical terminology suitable for the task.

**Claims 1, 5-7, 10, 14, 15, 19, 23, 24, 28-31, 33-35, 37, 39-42, 44-46, 48, 50-53, 55-57, 59 and 76-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. in view of Best et al. (US 5,533,176).**

Claims 1, 5-7, 10, 14, 15, 19, 23, 24, 28-31, 33-35, 37, 39-42, 44-46, 48, 50-53, 55-57, 59 and 76-81. Ogura teaches all the limitations of claims 1, 5-7, 10, 14, 15, 19, 23, 24, 28-31, 33-35, 37, 39-42, 44-46, 48, 50-53, 55-57, 59 and 76-81, including that the text and graphics to appear on a label is automatically scaled to fit the printable area

of a designated label, except specifically teaching that the "positional palette" or the size, rotation and appearance of any text and graphic that is to appear at each of the specific printable locations on the label may be designated by the user.

Best et al. (hereinafter Best) teaches a computer-implemented method, system and computer-readable medium having instructions for performing said method, for forming labels with a computer in response to entries from an input device, comprises generating and printing various labels that contain both text and graphics, wherein the control processor of the label generating and printing machine, while executing the operating program, that is stored in the memory, permits the user to design one or more labels by designating at each printable location on a label the "positional palette" or the size, rotation and appearance of any text or graphic that is to appear at each of the specific printable locations on the label. After the user has finished designing labels, the user may make further selection of the labels that will be printed as a print job on the printer that is associated with the label generation machine or method (Fig. 1; C. 4, L. 41 – C. 8, L. 20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ogura to include that the "positional palette" or the size, rotation and appearance of any text and graphic that is to appear at each of the specific printable locations on the label may be designated by the user, as disclosed in Best, because it would advantageously enhance the functionality of the system, thereby make it more attractive to the customers.

As per claims 30, 31, 41, 42, 52 and 53, it would have been obvious to one having ordinary skill in the art at the time the invention was made to recognize that the character to be printed could be a "prefix" or "suffix" relative to any of the other characters to be printed on a label, because the meaning of the words "prefix" and "suffix" would be understood by one of ordinary skill.

**Claims 38, 49 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. in view of Best et al. further in view of Drisko (US 4,718,784) and further in view of Benada et al. (US 5,621,864).**

Claims 38, 49 and 60. Ogura in view of Best teach all the limitations of claims 38, 49 and 60, including designating by the user a sequence of numbers to be placed on a label, except specifically teaching saving data for said ordered numerical sequence and plurality of labels so that another plurality of labels can continue in said ordered numerical sequence with a first label thereof having the next number of said ordered numerical sequence that succeeds the last number used by the step of assigning an ordered numerical sequence.

Drisko teaches a computer-implemented method and system, which under the control of an operating program stored in a memory, performing the functions of permitting an user to design one or more labels and then designate which of the designed labels are to be printed as a single print job on an supply of labels stock containing label that are arranged in one or rows and columns, wherein said system includes a control processor, memory, display, input device and printer and configured to permit the user to enter information that would:

for each label to be designed to define/designate for each printable character position/location on each label being designed the one or more alphanumeric characters, for example, text and serial numbers, or graphics, for example, a barcode, that is to appear on the label at each of the printable position/location on the label;

for each printable character position/location on each label being designed to designate a customized pallet that would designate the font size to be used, and

whether the character is to appear using bold print for each printable character position/location, where the pallet;

for each designed label by the user, to designate the quantity of labels to be printed in a print queue/job as well as the order/sequence in which the designated labels are to be printed in the print queue/job; and

permit the user to place a label serial number on a label;

based on the entered information, displaying for preview on a display the designed label including the relative positions of the alphanumeric/graphical content of the label;

wherein when the print queue/job is to be printed as indicated by an entry from the user, the designated labels would be printed beginning on a designated label, for example the first available label, on the label stock, and then serially on each available label in the rows/columns of labels on the label stock; and

wherein once the user has designated the appearance of a character/graphic, said designated appearance would be used for each sequential printable location on the label until a new appearance of a character/graphic was designated (Figs. 1-8b).

However, Drisko does not specifically teach saving the last serial number used so that the next label to be designed that includes a label serial number would use the next available succeeding serial number.

Benada et al. (hereinafter Benada) teaches a computer-implemented method, system and computer-readable medium having instructions for performing said method, for forming labels with a computer in response to entries from an input device, comprising keeping track of the last unique indicia in the sequence of unique indicium that has been used so that no two labels would be potentially confused with one another, since both labels would have the same unique identifier.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Drisko to include keeping track of the last unique indicia in the sequence of unique indicium that has been used so that no two labels would be potentially confused with one another, since both labels would have the same unique identifier, as disclosed in Benada, because it would advantageously allow to avoid confusion caused by having two labels with the same serial number confused as the same label.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ogura and Best to include the ability to place unique serial numbers on labels and to remember the last serial number used as taught by Drisko in view of Benada, because it would advantageously allow to avoid confusion caused by having two labels with the same serial number confused as the same label.

### **Response to Arguments**

Applicant's arguments filed 1/08/2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the claims rejection under 35 U.S.C. 102(b) in respect to claims 73-75 is improper, it is noted that claims 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura et al. (US. US 5,448,685).

In response to applicant's argument that Ogura et al. does not teach "determining if a current job is an ad hoc job or a serial job", it is noted that Ogura et al. teaches if the current job is an ad hoc job, presenting one or more ad hoc display screens for a user to define an ad hoc job that includes a variety of labels having different content, some of the labels of said ad hoc job being unrelated to other labels of said ad hoc job (Figs. 8B – 37).

While Ogura et al. does not explicitly teach that said new formation job is "ad hoc job", and that said continuation job is "serial job", the examiner points out that specification defines an "ad hoc job" (See: page 8, lines 16-24), as "Referring to FIG. 6, a display screen 90 is presented on display 46 when a user selects an ad hoc job for creating labels. *An ad hoc job includes a variety of different labels that may or may not be related. For instance, an ad hoc job may include replacement labels for an existing set of labels. Some of these labels will bear no ordered sequential relation to other labels in the job. However, the ad hoc job is versatile enough to include a group of labels that have an ordered sequence*". In view of applicant's own definition that an "ad hoc job" is a print job containing a number of labels and is versatile enough to include a series of labels either in a sequential order; or that are not in a sequential order, it is noted that one of ordinary skill at the time the invention was made could interpret any label print job of Ogura et al ('685) as the disclosed and claimed "AD HOC JOB".

In response to applicant's argument that the prior art fails to disclose assigning first and second positional palettes to at least first and second respective ones of said plurality of character positions, it is noted that Ogura teaches that the text and graphics to appear on a label is automatically scaled to fit the printable area of a designated label. As per the use of "positional palette" per se, Best et al. was applied for this feature. Specifically, Bets et al. teaches generating and printing various labels that contain both text and graphics, wherein the control processor of the label generating and printing machine, while executing the operating program, permits the user to design one or more labels by designating at each printable location on a label the "positional palette" or the size, rotation and appearance of any text or graphic that is to appear at each of the specific printable locations on the label (Fig. 1; C. 4, L. 41 – C. 8, L. 20).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references relate to a printing apparatus for printing jobs like labels or tags indicia. The motivation to incorporate the "positional palette" in Ogura et al. would be to advantageously enhance the functionality of the system, thereby make it more attractive to the customers.

The remaining applicant's arguments essentially repeat the arguments presented above; therefore, the responses presented by the examiner above are equally applicable to the remaining applicant's arguments.

**Conclusion**

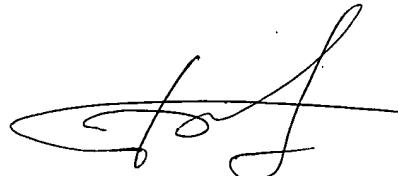
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3/28/2007



IGOR N. BORISOV  
PRIMARY EXAMINER